IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

O.J.APPEAL No 20 of 2003
in
COMPANY APPLICATION No 274 of 2001
with
O.J.CIVIL APPLN. NO. 61 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE FINANCIAL CORP.

Versus

O.L. OF NAVRANG SYNTH. FAB. PVT. LTD.

Appearance:
MR MITUL K SHELAT for appellant/applicant No. 1
OFFICIAL LIQUIDATOR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 27/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE KSHITIJ R.VYAS)

After having heard learned Advocate Mr.Shelat appearing for the appellant as well as the learned Official Liquidator for the Company (in liquidation), we are of the view that the dispute involved in the appeal cannot be effectively decided without hearing the other secured creditors who are not before us. Unfortunately, those secured creditors are not joined as party respondents even in the application filed before the learned Company Judge.

Learned Advocate appearing for the appellant and learned Official Liquidator have jointly requested to remit back the case to the learned Company Judge for fresh decision in the matter after hearing the concerned parties. In that view of the matter, we allow this appeal and remand the case for fresh decision, by setting aside the impugned order dated 14.10.2002 passed in Company Application No. 274 of 2001 by granting liberty to the appellant to join the concerned secured creditors as party respondents. No costs.

In view of the order passed in the main appeal, the Civil Application for stay does not survive and is disposed of.

(Kshitij R. Vyas, J.)

(M.C. Patel, J.)

Sreeram.